

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DENA JEAN BURGESS,

Plaintiff, CIV-S-05-0568 FCG GGH PS

vs.

CHRIS ANDREWS,

Defendant. ORDER

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On July 5, 2005, the magistrate judge filed findings and recommendations herein which were served on the parties and which contained notice that any objections to the findings and recommendations were to be filed within ten days. Plaintiff filed objections on July 13, 2005, which were considered by the district judge.

On June 16, 2005, plaintiff also filed a “Notice of Appeal As of Right” following a hearing on June 9, 2005, after which the magistrate judge took plaintiff’s motion for summary judgment under submission. Plaintiff’s “notice of appeal” appears to be an objection to the magistrate’s authority to hear her claim. Pursuant to Local Rule 72-302(c)(21), the magistrate acted within his authority to hear plaintiff’s claim and issue findings and recommendations thereon.

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This court reviews de novo those portions of the proposed findings of fact to which objection has been made. 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Business Machines, 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982). As to any portion of the proposed findings of fact to which no objection has been made, the court assumes its correctness and decides the motions on the applicable law. See Orand v. United States, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. See Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir. 1983).

The court has reviewed the applicable legal standards and, good cause appearing, concludes that it is appropriate to adopt the Proposed Findings and Recommendations in full.

Accordingly, IT IS ORDERED that:

1. The Proposed Findings and Recommendations filed July 5, 2005, are ADOPTED; and
2. Plaintiff's claims against defendant are dismissed with prejudice, without leave

DATED: August 9, 2005

/s/ Frank C. Damrell Jr.
FRANK C. DAMRELL JR.
United States District Judge